

ESTTA Tracking number: **ESTTA571557**

Filing date: **11/18/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212870
Party	Defendant Cayard, Henri R
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Submission	Answer
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Date	11/18/2013
Attachments	ANSWERTOOPPOSITIONPDF.pdf(48358 bytes )

In re: Application of                         :       Henri R Cayard  
Serial No.                                     :       85828400  
Filed    :       January 21, 2013  
For    :       BABAROC

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2. At the time of Filing, Applicant had not yet commenced commercial use of the subject mark. Post filing, Applicant Henri R Cayard has used the subject mark "BABAROC" to promote the pending launch of the 'BABAROC' brand.
3. The word 'BABA' (pronounced: BAH-BAH) is often used as a NOUN and also as an Honorific for 'Father', 'Grandfather' or 'Sir' in many cultures and is usually prefixed OR suffixed to a name or Sobriquet.

A Sobriquet is a nickname, sometimes assumed, but often given by another. It is usually a familiar name, distinct from a pseudonym assumed as a disguise, but a nickname, which is familiar enough such that it can be used in place of a real name without the need of explanation. This salient characteristic is of sufficient familiarity that the sobriquet can become more familiar than the original name.

The above statements are proof of the common global cultural definition of the word 'BABA' and also an example of how it is often used is only being mentioned as my evidence to show that I, Henri R Cayard, a naturalized American and a citizen of The United States of America have been using the word 'BABA' for my whole life, 36 years and counting. I also have a career in the Contemporary Arts where I used my childhood nickname of Roc as my professional name. Hence, my professional working name as a Contemporary Artist (Painter and Sculptor) of Roc Cayard.

I hereby understand Opposer's statement that they've used the word 'BABAR' (Pronounced BAH-BAR) but NOT (Bah-Bah) as I use in my filing for the mark of 'BABAROC' (pronounced BAH-BAH Roc) since 1988. But 1988 does NOT Precede my birth in 1977 when 'Roc' became my lifelong nickname being that I was a Jr and shared my legal name of Henri with my father.

4. Opposer refers to their use of their mark as preceding Applicant's filing for 'BABAROC' But Applicant's word mark is of 1) A totally different word mark 2) Different pronunciation (BAH-BAR) vs. (BAH-BAH) 3) Totally different spelling. Opposer is seeking to take complete ownership and be entitled to every possible Global / Cultural word that they assume to be part of their registration, whereas the word mark that is being sought by applicant is very different from Opposer's mark.
5. Applicant has yet to encounter and will never encounter anyone that's mentioned Opposer's mark in reference to Applicant's BABAROC brand. Totally different word. Applicant's mark is only used in Athletics, Sportswear related products.
6. Applicant's use of the mark BABAROC is always used in the complete word form. The mark is NEVER broken up in parts and it will never be. There isn't the slightest risk that these two marks can be confused in the marketplace. Two totally different words.
7. Substantial efforts have been devoted by Applicant in advertising and promoting its BABAROC (Bah-Bah Roc, as naturally pronounced) branded goods within the Athletics and Sportswear venues in New York City. Applicant, Henri R Cayard, also referred to professionally as 'Roc Cayard' has made a name for himself in the urban music industry first as an Urban Music Video director and eventually (and currently) as a Contemporary Artist (Painter/Sculpture) while always maintaining and using his childhood name of Roc for 36 years.
8. Applicant denies Opposer's assumption that their two marks are the same. Completely different words as previously stated.
9. Applicant is seeking the registration of the mark BABAROC (Bah-Bah Roc) not of Opposer's mark of Babar. Therefore Applicant's mark will NOT be a source of damage and injury to Opposer.

10. Applicant' registration for the mark of BABAROC should be granted as Opposer's filing for opposition is an attempt to prevent the registration of Applicant's mark that is NOT that of Opposer's in spelling, word length, pronunciation and derivation (As respectfully explained in #3).
11. Applicant believes that there will NOT be any confusion between Opposer's mark and that of which Applicant is seeking comes down to the fact that they are two different words. Upon further research, it shows that Opposer's company is based in IRELAND. Applicant's company is based in Manhattan, NY, furthermore applicant's BABAROC brand takes pride in its NYC link as it's used in all of its Promotional materials and it clearly identifies itself as a NEW YORK CITY start-up based and bred Urban Sportswear brand. Two different words, two different places of origin. No risk for confusion.
12. Applicant is requesting the approval of the BABAROC mark that he is seeking in good faith.
13. As a rebuttal to Opposer's assumptions, Applicant's mark DOES and CAN exclusively identify the goods in connection with which it is proposing to be used as the goods of Applicant and can clearly be distinguished from that of the Opposer. For one, Every promotional clothing article that Applicant has been producing and will continue to produce will not only always have the word BABAROC on it but it will also always feature the brand's unique logo.
14. By the many reasons stated above, Applicant's registration for the mark 'BABAROC' will NOT cause damage and injury to Opposer's mark.
15. Applicant's mark should be APPROVED for Registration.

16. (Statement by Opposer is in relation to its fee and Deposit Account. No statement needed by Applicant here)

WHEREFORE, Applicant, Henri R Cayard, also widely known professionally as 'Roc Cayard' prays and hopes that given the above testimony/Statements and Proof, that the Application for the mark of 'BABAROC' be granted for the goods specified.

Date: 11/14/13

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